

E-Filed 11/16/07

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA
SAN JOSE DIVISION**

BIN YU,

Plaintiff,

v.

MICHAEL CHERTOFF, Secretary of the
Department of Homeland Security; ROBERT S.
MUELLER,
Director of Federal Bureau of Investigation,

Defendants.

Case Number C 07-5256 JF

ORDER TO SHOW CAUSE

On October 15, 2007, Plaintiff Bin Yu ("Yu") filed the instant "Complaint For Writ in the Nature of Mandamus." Plaintiff alleges that Defendants have failed to process his I-485 application in a timely manner.

Yu is a native and citizen of the People's Republic of China. Complaint ¶ 2. Yu is married to Di Zhang ("Zhang"), a United States citizen. *Id.* On May 1, 2005, Yu filed a Form I-485 with the United States Citizenship and Immigration Services ("USCIS") seeking to become a lawful permanent resident of the United States as a beneficiary of the Form I-130 petition filed

1 by Zhang. *Id.* Yu's application is still pending with the USCIS. *Id.* ¶ 9.

2 Yu alleges that, as a result, Defendants have violated the Administrative Procedures Act,
3 5 U.S.C § 701 et. seq. Yu requests that this Court enter an order compelling defendants to act
4 upon his application.

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6 Good cause appearing, IT IS HEREBY ORDERED as follows:

- 7 (1) The Clerk of the Court shall serve a copy of the complaint and a copy of this
8 Order upon counsel for Defendants, the Office of the United States Attorney. The
9 Clerk of the Court also shall serve a copy of this Order upon Plaintiff.
- 10 (2) Defendants shall, within sixty (60) days after receiving service of the complaint,
11 show cause in writing why the relief prayed for should not be granted.
- 12 (3) Plaintiff may file a response to Defendants' filing within twenty (20) days after
13 receipt of such filing.
- 14 (4) Unless otherwise ordered by the Court, the matter will be deemed submitted upon
15 the filing of the response or upon the expiration of time to file a response.
- 16 (5) The order dated October 15, 2007, setting an Initial Case Management Conference
17 and ADR deadlines, is hereby VACATED.

18 IT IS SO ORDERED.

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23 DATED: 11/13/07

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26 JEREMY FOGEL
27 United States District Judge
28

1 Copies of Order served on the following persons:

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3 Plaintiff:

4 Justin X. Wang justin@lawbw.com

5 Counsel for Defendants:

6 Office of the United States Attorney
150 Almaden Blvd., Suite 900
7 San Jose, CA 95113